

IN THE HIGH COURT OF JHARKHAND AT RANCHI

W.P.(C) No. 701 of 2021

M/s Cosy Care, Ranchi, though one of its partners, namely Prosenjit Guha Sarkar & Ors.

... .. Petitioners

Versus

The State of Jharkhand, through Secretary, Department of Revenue, Registration and Land Reforms, Government of Jharkhand & Ors.

... .. Respondents

CORAM: HON'BLE MR. JUSTICE RAJESH SHANKAR

For the Petitioners :- Mr. Rohit Roy, Advocate

For the State :- Mr. Mohan Dubey, A.C. to A.G.

04/12.04.2021 The present case is taken up through video conferencing.

Learned counsel for the petitioners submits that the deficit court fee, as pointed out by the office, has already been deposited.

Office to verify the same.

At the request of the learned counsel for the petitioners, rest defect, as pointed out by the office, is ignored.

The present writ petition has been filed for quashing circular no. 04/16930 dated 21.09.2016 (Annexure-11 to the writ petition) issued by the respondent no. 1 by reasons of which the jurisdiction has been conferred upon the District Registrar to cancel/annul registered sale deeds executed by means of impersonation or on the basis of forged documents and false statement/acceptance in purported exercise of powers conferred under Sections 82 and 83 of the Registration Act, 1908 (in short "the Act, 1908") despite the fact the said Act does not empower the state government to frame rules or issue such circulars/guidelines authorizing the District Registrar to assume jurisdiction and pass order to cancel/annul the sale deeds which have already been registered. Further prayer has been made for quashing the entire proceeding in connection with Fraudulent Registration Case No. 05 R. 28/2018-19 (Annexure-10 to the writ petition) initiated by the respondent no. 3 in purported exercise of powers under Sections 82 and 83 of the Act, 1908 as well as in the light of circular no. 04/16930 dated 21.09.2016 (Annexure-11 to the writ petition) on application of respondent nos. 7 to 9 for cancellation of registered sale deeds executed in favour of the petitioners by the legal representatives of the recorded tenant.

Learned counsel for the petitioners submits that the petitioner no. 1 purchased different land at village- Simaliya appertaining to plot

no. 827, Khata No. 203 measuring an area of 39.04 decimals and plot no. 828, Khata No. 197 measuring an area of 01 decimal and plot no. 829, Khata No. 197 measuring an area of 44 decimals (total 84.04 decimals) by virtue of a registered deed no. 1455/1258 dated 23.02.2016. The petitioner no. 2 purchased 6.53 decimals of land in village Simaliya appertaining to plot no. 827, Khata no. 203 decimals and 3.47 decimals appertaining to plot no. 825, Khata no. 205 (total 10 decimals) through registered sale deed no. 5872/6959 dated 17.10.2015. The petitioner no. 3 also purchased land in village Simaliya appertaining to plot no. 827, Khata no. 203 measuring an area of 4.93 decimals and plot no. 825, Khata no. 205 measuring an area of 5.03 decimals (total 9.96 decimals) through registered sale deed no. 6960/5873 dated 17.10.2015. The petitioners altogether purchased 1.04 acres of land from the legal heirs of the recorded tenant and came in actual, physical and exclusive possession of the same as the absolute owners thereof. The aforesaid sale deeds were executed by the respondent nos. 12 and 13 who are the legal heirs of the recorded tenant. However, the respondent nos. 7 to 9 filed a complaint before the respondent no. 3 claiming inter alia that they are also the legal heirs of the recorded tenant and the aforesaid sale deeds were executed by the respondent nos. 12 and 13 in a fraudulent manner. They requested the respondent no. 3 to cancel registration of the sale deeds executed in favour of the petitioners. Learned counsel for the petitioners further submits that the District Registrar/ Deputy Commissioner of a district has no jurisdiction to initiate a proceeding for cancellation of registered sale deed under the provisions of the Act, 1908 hence the initiation of Fraudulent Registration Case No. 05 R. 28/2018-19 by the respondent no. 3 vide order dated 17.05.2018 in the light of circular no. 04/16930 dated 21.09.2016 issued by the respondent no. 1 as well as purportedly assuming jurisdiction under Sections 82 and 83 of the Act, 1908 is completely illegal and without jurisdiction. It is also submitted that in similar writ petitions led by W.P.(C) No. 07 of 2021, this Court vide order 08.02.2021 while directing the respondents to file counter affidavit has passed interim order in favour of the said petitioners. Learned counsel for the petitioners, on instruction, submits that Fraudulent Registration Case No. 05 R. 28/2018-19 has been put for final hearing on 19.05.2021 by the respondent no. 3.

Mr. Mohan Dubey, learned A.C. to A.G., though opposes the submission of the learned counsel for the petitioners on merit, however he accepts the facts that this Court vide order dated 08.02.2021 passed in W.P.(C) No. 07 of 2021 has granted the interim relief in favour of the petitioner(s). He however prays for and is allowed four weeks' time to seek instruction and file counter affidavit on behalf of the respondent nos. 1 to 6.

Issue notice to the respondent nos. 7 to 9 as well as the respondent nos. 10 to 13 through ordinary process for which requisites etc. must be filed by 22.04.2021.

Put up this case along with W.P.(C) No. 07 of 2021 and other analogous cases.

In the meantime, the further proceeding of Fraudulent Registration Case No. 05 R. 28/2018-19 pending before the respondent no. 3 shall remain stayed.

(Rajesh Shankar, J.)